IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7232 of 2007
Date of Decision: 15.5.2007

Paramjit Singh

Petitioner

versus

The Secretary, Market Committee, Anaj Mandi, Sirhand Road, Patiala and another

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Shri Gurnam Singh, Advocate for the petitioner

Jasbir Singh, J. (Oral)

Vide award dated 22.3.2004 (Annexure P/2), claim of the petitioner, for reinstatement in service, was declined by the Labour Court, Patiala.

It was case of the petitioner that he entered service of the respondent-management in the year 1989 and his service was terminated on 15.7.1993, without complying with the provisions of Section 25-F of the Industrial Disputes Act, 1947. The Labour Court gave ample opportunities to both the parties, to prove their case. The management had taken a stand before the Court below that the petitioner was only a seasonal employee and he used to work at a procurement centre, for few days, at the time when agricultural produce was being sold/ purchased at that centre. Before the Court below, the petitioner has stated as under:-

> *"I started work at Purchase Centre Bakshiwala on 17.4.1989. It is correct that this Centre is seasonal and I used to work there for a short period .... It is also correct that I worked from 17.4.1989 to 30.4.1989, 1.5.1989 to 9.5.1989, 17.4.1990*

to 3.5.1990, 1.10.1990 to 31.10.1990. It is also correct that I worked there from 12.4.1993 to 30.4.1993 and finally I worked there from 1.5.1993 to 7.5.1993."

Even if we presume that the statement made by the petitioner is correct, it does not make out 240 days of service in 12 months preceding the date of his termination.

Counsel for the petitioner has vehemently contended that the Court below has not drawn adverse inference against the management on account of non-production of the record. In view of facts on file, we are unable to agree with the contention raised. The Court below has observed thus in that regard:-

"*Sh.Marwaha contended that he moved an application on 10.1.2002 and 26.2.2002 for summoning the record of the respondent management but the record was not produced by the respondent management. Therefore, an adverse conclusion can be drawn out of the conduct of the respondent management. I do not agree with the contention of Mr.Marwaha for two reasons. Firstly, the workman has admitted the case of the respondent management, therefore, it makes no difference whether the record was produced or not produced before this court. Secondly, the perusal of the zimni order dated 24.11.1997 would show that the record which was demanded by Mr.Marwaha is very lengthy. Therefore, my predecessor passed the order at earlier occasion that Mr.Marwaha could go to the office of respondent management for inspection of the record and the respondent management would put up the entire record before Mr.Marwaha. It was*

also ordered that in case Mr.Marwaha asks for photocopy of the record, the same be supplied at the expenses of the workman. It was again ordered that in case Mr.Marwaha wants to inspect the record, he could go to the office of the respondent management for doing the needful. The bare perusal of the zimni order dated 30.11.1999 would show that the representative of respondent came with the record in this court and it is ordered that in case workman asks for a photocopy of the record, the same could be supplied to him. Therefore, it is clear that the workman was given due opportunity to inspect the record of the respondent management and respondent also cooperated with the workman in this matter. It become clear from the aforesaid zimni order that Mr.Marwaha representative of the workman was given opportunities to see the record of the respondent management for a period of 2 years i.e. from September 1977 to November 1999. In case, there was any objection to Mr.Marwaha in connection with the record of the respondent, the same would have been brought on the case file but Mr.Marwaha gave a statement in the beginning of this para that the application for summoning the record were filed after four years. The respondent produced the whole record on the workman and his representative to see the whole record. Therefore, no adverse conclusion can be drawn against the respondent management."

Ample opportunity was given to the petitioner, to inspect the record, but he failed to do so. Otherwise also, once the petitioner, of his

own, had mentioned the period spent with the respondent-management in his statement, which does not make out 240 days in 12 months preceding the date of his termination, we feel that his claim has rightly been rejected. No case is made out for interference.

Dismissed.

(Jasbir Singh)
Judge

May 15, 2007 **(Nirmal Yadav)**
gk **Judge**